

practicable, in a manner consistent with the allocation formula shall not be construed to interfere with the ability of such employees, agencies, and instrumentalities to take actions during emergency situations.

(7) As among water right holders within any one State, nothing in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective signatory States relating to riparian rights of the United States in and to the waters of the Apalachicola-Chattahoochee-Flint River Basin.

SEC. 5. EFFECTUATION.

(a) **FEDERAL AGENCY AUTHORITY.**—To carry out the purposes of this Compact, Federal agencies are authorized, as they may deem appropriate—

(1) to engage in cooperative relationships with the Commission;

(2) to conduct studies and monitoring programs in cooperation with the Commission;

(3) to enter into agreements to indemnify private landowners against liability that may arise from studies and monitoring programs undertaken in cooperation with the Commission; and

(4) to furnish assistance, including the provision of services, facilities, and personnel, to the Federal Commissioner.

(b) **APPROPRIATIONS.**—Appropriations are authorized as necessary for implementing the Compact, including appropriations for carrying out the functions of the Federal Commissioner and alternates and for employment of personnel by the Federal Commissioner?

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from New York [Mr. NADLER] each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume. I urge adoption of this legislation.

As Members know, the Constitution of the United States requires that when two or more States are in conflict over certain measures that affect those States and that they would be susceptible to an agreement among those States or between those States, that they cannot be finalized without the approval of the Congress of the United States.

Hence, the States of Alabama, Georgia, and Florida, not able to agree on water allocation stemming from the Apalachicola, Chattahoochee, and Flint Rivers in their jurisdictions, turned to the courts and other negotiating features to try to arrange their differences. They were unable to do so until very recently when their three respective legislatures finally agreed and approved of a measure suitable to all three States.

Because the Constitution requires our intervention, a hearing was held before our committee on the matter, and this bill provides the approval of

the Congress for the various features of the agreement reached among Alabama, Georgia, and Florida.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, I rise in support of this measure which passed the Committee on the Judiciary unanimously with the support of all Members on both sides of the aisle. The chairman of the subcommittee, the gentleman from Pennsylvania, has done a fine job of explaining the bill, and I will not attempt to cover the same ground a second time.

It has the support of the States involved in the compact of their congressional delegations and of the administration. It protects the discretion of Federal agencies to enforce the laws they are charged with enforcing. It is our responsibility under Article I of the Constitution to grant the consent of Congress to interstate compacts. I urge my colleagues to do so in this case.

Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my friend and colleague, the gentleman from New York [Mr. NADLER], for yielding me this time. I thank the chairman for all of his help and all of his support, the gentleman from Pennsylvania.

I am here to lend my strong support for these three tri-State water compacts. It was not easy, but the States of Georgia, Florida, and Alabama had come together with the Federal Government behind a proposal that we all can agree on. This legislation will protect the environment, the water supplies, and the interests of everyone involved.

A lot of dedicated people spent a lot of time working on this legislation. I want to thank my colleagues, the gentleman from Georgia [Mr. BARR] and the gentleman from Georgia [Mr. GINGRICH], for their work on this project. I also want to thank Rob Hood with the Speaker's office and Bob Herriott with the office of the gentleman from Georgia [Mr. BARR], Spinner Findley with the Department of Justice, Philip Mancusi-Ungaro with the EPA, Joe Tanner with the State of Georgia, and State Representative Bob Kerr, who deserve recognition for their contribution. In addition, I thank Sally Bethea with the Upper Chattahoochee River people for her work to ensure that these compacts adequately protect the environment.

Mr. Speaker, lastly, I thank Harold Reheis, head of the Georgia Environmental Protection Division. More than any other individual, Harry Reheis deserves recognition for bringing us to where we are today. Through his leadership and dedication, we have man-

aged to resolve all of the differences and overcome all of the problems confronting this project. So I thank Mr. Reheis for all his work on this project.

Again, I express my strong support for these compacts and ask my colleagues for their support.

Mr. EVERETT. Mr. Speaker, I rise in support of H.J. Res. 91, a resolution providing congressional approval of the interstate compact between Alabama, Georgia, and Florida. This compact represents many months of hard work and negotiations between these States on how best to allocate limited water resources. This compact follows a 1992 agreement which expires at the end of this year; therefore, time is of essence. I support this water management plan and believe this compact is crucial to proper water flow and allocation in this region. My State of Alabama depends heavily on adequate water flow from these rivers to support the need of navigation, industry, agriculture and households. Please join me in supporting H.J. Res. 91.

Mr. GEKAS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 91, as amended.

The question was taken.

Mr. NADLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

ALABAMA-COOSA-TALLAPOOSA RIVER BASIN COMPACT

Mr. GEKAS. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 92) granting the consent of Congress to the Alabama-Coosa-Tallapoosa River Basin Compact, as amended.

The Clerk read as follows:

H.J. RES. 92

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL CONSENT.

The Congress consents to the Alabama-Coosa-Tallapoosa River Basin Compact entered into by the States of Alabama and Georgia. The compact is substantially as follows:

"Alabama-Coosa-Tallapoosa River Basin Compact

"The States of Alabama and Georgia and the United States of America hereby agree to the following compact which shall become effective upon enactment of concurrent legislation by each respective state legislature and the Congress of the United States

"SHORT TITLE

"This Act shall be known and may be cited as the 'Alabama-Coosa-Tallapoosa River Basin

Compact' and shall be referred to hereafter in this document as the 'ACT Compact' or 'Compact'.

"ARTICLE I

"COMPACT PURPOSES

"This Compact among the States of Alabama and Georgia and the United States of America has been entered into for the purposes of promoting interstate comity, removing causes of present and future controversies, equitably apportioning the surface waters of the ACT, engaging in water planning, and developing and sharing common data bases.

"ARTICLE II

"SCOPE OF THE COMPACT

"This Compact shall extend to all of the waters arising within the drainage basin of the ACT in the states of Alabama and Georgia.

"ARTICLE III

"PARTIES

"The parties to this Compact are the states of Alabama and Georgia and the United States of America.

"ARTICLE IV

"DEFINITIONS

"For the purposes of this Compact, the following words, phrases and terms shall have the following meanings:

"(a) 'ACT Basin' or 'ACT' means the area of natural drainage into the Alabama River and its tributaries, the Coosa River and its tributaries, and the Tallapoosa River and its tributaries. Any reference to the rivers within this Compact will be designated using the letters 'ACT' and when so referenced will mean each of these three rivers and each of the tributaries to each such river.

"(b) 'Allocation formula' means the methodology, in whatever form, by which the ACT Basin Commission determines an equitable apportionment of surface waters within the ACT Basin among the two states. Such formula may be represented by a table, chart, mathematical calculation or any other expression of the Commission's apportionment of waters pursuant to this compact.

"(c) 'Commission' or 'ACT Basin Commission' means the Alabama-Coosa-Tallapoosa River Basin Commission created and established pursuant to this Compact.

"(d) 'Ground waters' means waters within a saturated zone or stratum beneath the surface of land, whether or not flowing through known and definite channels.

"(e) 'Person' means any individual, firm, association, organization, partnership, business, trust, corporation, public corporation, company, the United States of America, any state, and all political subdivisions, regions, districts, municipalities, and public agencies thereof.

"(f) 'Surface waters' means waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be considered 'surface waters' when it exits from the spring onto the surface of the earth.

"(g) 'United States' means the executive branch of the Government of the United States of America, and any department, agency, bureau or division thereof.

"(h) 'Water Resource Facility' means any facility or project constructed for the impoundment, diversion, retention, control or regulation of waters within the ACT Basin for any purpose.

"(i) 'Water resources,' or 'waters' means all surface waters and ground waters contained or otherwise originating within the ACT Basin.

"ARTICLE V

"CONDITIONS PRECEDENT TO LEGAL VIABILITY OF THE COMPACT

"This Compact shall not be binding on any party until it has been enacted into law by the legislatures of the States of Alabama and Georgia and by the Congress of the United States of America.

"ARTICLE VI

"ACT BASIN COMMISSION CREATED

"(a) There is hereby created an interstate administrative agency to be known as the 'ACT Basin Commission.' The Commission shall be comprised of one member representing the State of Alabama, one member representing the State of Georgia, and one non-voting member representing the United States of America. The State members shall be known as 'State Commissioners' and the Federal member shall be known as 'Federal Commissioner.' The ACT Basin Commission is a body politic and corporate, with succession for the duration of this Compact.

"(b) The Governor of each of the States shall serve as the State Commissioner for his or her State. Each State Commissioner shall appoint one or more alternate members and one of such alternates as designated by the State Commissioner shall serve in the State Commissioner's place and carry out the functions of the State Commissioner, including voting on Commission matters, in the event the State Commissioner is unable to attend a meeting of the Commission. The alternate members from each State shall be knowledgeable in the field of water resources management. Unless otherwise provided by law of the State for which an alternate State Commissioner is appointed, each alternate State Commissioner shall serve at the pleasure of the State Commissioner. In the event of a vacancy in the office of an alternate, it shall be filled in the same manner as an original appointment.

"(c) The President of the United States of America shall appoint the Federal Commissioner who shall serve as the representative of all Federal agencies with an interest in the ACT. The President shall also appoint an alternate Federal Commissioner to attend and participate in the meetings of the Commission in the event the Federal Commissioner is unable to attend meetings. When at meetings, the alternate Federal Commissioner shall possess all of the powers of the Federal Commissioner. The Federal Commissioner and alternate appointed by the President shall serve until they resign or their replacements are appointed.

"(d) Each state shall have one vote on the ACT Basin Commission and the Commission shall make all decisions and exercise all powers by unanimous vote of the two State Commissioners. The Federal Commissioner shall not have a vote but shall attend and participate in all meetings of the ACT Basin Commission to the same extent as the State Commissioners.

"(e) The ACT Basin Commission shall meet at least once a year at a date set at its initial meeting. Such initial meeting shall take place within ninety days of the ratification of the Compact by the Congress of the United States and shall be called by the chairman of the Commission. Special meetings of the Commission may be called at the discretion of the chairman of the Commission and shall be called by the chairman of the Commission upon written request of any member of the Commission. All members shall be notified of the time and place designated for any regular or special meeting at least five days prior to such meeting in one of the following ways: by written notice mailed to the last mailing address given to the Commission by each member, by facsimile, telegram or by telephone. The Chairmanship of the Commission shall rotate annually among the voting members of the Commission on an alphabetical basis, with the first chairman to be the State Commissioner representing the State of Alabama.

"(f) All meetings of the Commission shall be open to the public.

"(g) The ACT Basin Commission, so long as the exercise of power is consistent with this Compact, shall have the following general powers:

"(1) to adopt bylaws and procedures governing its conduct;

"(2) to sue and be sued in any court of competent jurisdiction;

"(3) to retain and discharge professional, technical, clerical and other staff and such consultants as are necessary to accomplish the purposes of this Compact;

"(4) to receive funds from any lawful source and expend funds for any lawful purpose;

"(5) to enter into agreements or contracts, where appropriate, in order to accomplish the purposes of this Compact;

"(6) to create committees and delegate responsibilities;

"(7) to plan, coordinate, monitor, and make recommendations for the water resources of the ACT Basin for the purposes of, but not limited to, minimizing adverse impacts of floods and droughts and improving water quality, water supply, and conservation as may be deemed necessary by the Commission;

"(8) to participate with other governmental and non-governmental entities in carrying out the purposes of this Compact;

"(9) to conduct studies, to generate information regarding the water resources of the ACT Basin, and to share this information among the Commission members and with others;

"(10) to cooperate with appropriate state, federal, and local agencies or any other person in the development, ownership, sponsorship, and operation of water resource facilities in the ACT Basin; provided, however, that the Commission shall not own or operate a federally-owned water resource facility unless authorized by the United States Congress;

"(11) to acquire, receive, hold and convey such personal and real property as may be necessary for the performance of its duties under the Compact; provided, however, that nothing in this Compact shall be construed as granting the ACT Basin Commission authority to issue bonds or to exercise any right of eminent domain or power of condemnation;

"(12) to establish and modify an allocation formula for apportioning the surface waters of the ACT Basin among the states of Alabama and Georgia; and

"(13) to perform all functions required of it by this Compact and to do all things necessary, proper or convenient in the performance of its duties hereunder, either independently or in cooperation with any state or the United States.

"ARTICLE VII

"EQUITABLE APPORTIONMENT

"(a) It is the intent of the parties to this Compact to develop an allocation formula for equitably apportioning the surface waters of the ACT Basin among the states while protecting the water quality, ecology and biodiversity of the ACT, as provided in the Clean Water Act, 33 U.S.C. Sections 1251 et seq., the Endangered Species Act, 16 U.S.C. Sections 1532 et seq., the National Environmental Policy Act, 42 U.S.C. Sections 4321 et seq., the Rivers and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq., and other applicable federal laws. For this purpose, all members of the ACT Basin Commission, including the Federal Commissioner, shall have full rights to notice of and participation in all meetings of the ACT Basin Commission and technical committees in which the basis and terms and conditions of the allocation formula are to be discussed or negotiated. When an allocation formula is unanimously approved by the State Commissioners, there shall be an agreement among the states regarding an allocation formula. The allocation formula thus agreed upon shall become effective and binding upon the parties to this Compact upon receipt by the Commission of a letter of concurrence with said formula from the Federal Commissioner. If, however, the Federal Commissioner fails to submit a letter of concurrence to the Commission within two hundred ten (210) days after the allocation formula is agreed upon by the State Commissioners, the Federal Commissioner shall within forty-five (45) days thereafter submit to

the ACT Basin Commission a letter of nonconcurrency with the allocation formula setting forth therein specifically and in detail the reasons for nonconcurrency; provided, however, the reasons for nonconcurrency as contained in the letter of nonconcurrency shall be based solely upon federal law. The allocation formula shall also become effective and binding upon the parties to this Compact if the Federal Commissioner fails to submit to the ACT Basin Commission a letter of nonconcurrency in accordance with this Article. Once adopted pursuant to this Article, the allocation formula may only be modified by unanimous decision of the State Commissioners and the concurrence by the Federal Commissioner in accordance with the procedures set forth in this Article.

"(b) The parties to this Compact recognize that the United States operates certain projects within the ACT Basin that may influence the water resources within the ACT Basin. The parties to this Compact further acknowledge and recognize that various agencies of the United States have responsibilities for administering certain federal laws and exercising certain federal powers that may influence the water resources within the ACT Basin. It is the intent of the parties to this Compact, including the United States, to achieve compliance with the allocation formula adopted in accordance with this Article. Accordingly, once an allocation formula is adopted, each and every officer, agency, and instrumentality of the United States shall have an obligation and duty, to the maximum extent practicable, to exercise their powers, authority, and discretion in a manner consistent with the allocation formula so long as the exercise of such powers, authority, and discretion is not in conflict with federal law.

"(c) Between the effective date of this Compact and the approval of the allocation formula under this Article, the signatories to this Compact agree that any person who is withdrawing, diverting, or consuming water resources of the ACT Basin as of the effective date of this Compact, may continue to withdraw, divert or consume such water resources in accordance with the laws of the state where such person resides or does business and in accordance with applicable federal laws. The parties to this Compact further agree that any such person may increase the amount of water resources withdrawn, diverted or consumed to satisfy reasonable increases in the demand of such person for water between the effective date of this Compact and the date on which an allocation formula is approved by the ACT Basin Commission as permitted by applicable law. Each of the state parties to this Compact further agree to provide written notice to each of the other parties to this Compact in the event any person increases the withdrawal, diversion or consumption of such water resources by more than 10 million gallons per day on an average annual daily basis, or in the event any person, who was not withdrawing, diverting or consuming any water resources from the ACT Basin as of the effective date of this Compact, seeks to withdraw, divert or consume more than one million gallons per day on an average annual daily basis from such resources. This Article shall not be construed as granting any permanent, vested or perpetual rights to the amounts of water used between January 3, 1992 and the date on which the Commission adopts an allocation formula.

"(d) As the owner, operator, licensor, permitting authority or regulator of a water resource facility under its jurisdiction, each state shall be responsible for using its best efforts to achieve compliance with the allocation formula adopted pursuant to this Article. Each such state agrees to take such actions as may be necessary to achieve compliance with the allocation formula.

"(e) This Compact shall not commit any state to agree to any data generated by any study or commit any state to any allocation formula not acceptable to such state.

"ARTICLE VIII

"CONDITIONS RESULTING IN TERMINATION OF THE COMPACT

"(a) This Compact shall be terminated and thereby be void and of no further force and effect if any of the following events occur:

"(1) The legislatures of the states of Alabama and Georgia each agree by general laws enacted by each state within any three consecutive years that this Compact should be terminated.

"(2) The United States Congress enacts a law expressly repealing this Compact.

"(3) The States of Alabama and Georgia fail to agree on an equitable apportionment of the surface waters of the ACT as provided in Article VII(a) of this Compact by December 31, 1998, unless the voting members of the ACT Basin Commission unanimously agree to extend this deadline.

"(4) The Federal Commissioner submits to the Commission a letter of nonconcurrency in the initial allocation formula in accordance with Article VII(a) of the Compact, unless the voting members of the ACT Basin Commission unanimously agree to allow a single 45 day period in which the non-voting Federal Commissioner and the voting State Commissioners may renegotiate an allocation formula and the Federal Commissioner withdraws the letter of nonconcurrency upon completion of this renegotiation.

"(b) If the Compact is terminated in accordance with this Article it shall be of no further force and effect and shall not be the subject of any proceeding for the enforcement thereof in any federal or state court. Further, if so terminated, no party shall be deemed to have acquired a specific right to any quantity of water because it has become a signatory to this Compact.

"ARTICLE IX

"COMPLETION OF STUDIES PENDING ADOPTION OF ALLOCATION FORMULA

"The ACT Basin Commission, in conjunction with one or more interstate, federal, state or local agencies, is hereby authorized to participate in any study in process as of the effective date of this Compact, including, without limitation, all or any part of the Alabama-Coosa-Tallapoosa/ Apalachicola-Chattahoochee-Flint River Basin Comprehensive Water Resource Study, as may be determined by the Commission in its sole discretion.

"ARTICLE X

"RELATIONSHIP TO OTHER LAWS

"(a) It is the intent of the party states and of the United States Congress by ratifying this Compact, that all state and federal officials enforcing, implementing or administering other state and federal laws affecting the ACT Basin shall, to the maximum extent practicable, enforce, implement or administer those laws in furtherance of the purposes of this Compact and the allocation formula adopted by the Commission insofar as such actions are not in conflict with applicable federal laws.

"(b) Nothing contained in this Compact shall be deemed to restrict the executive powers of the President in the event of a national emergency.

"(c) Nothing contained in this Compact shall impair or affect the constitutional authority of the United States or any of its powers, rights, functions or jurisdiction under other existing or future laws in and over the area or waters which are the subject of the Compact, including projects of the Commission, nor shall any act of the Commission have the effect of repealing, modifying or amending any federal law. All officers, agencies and instrumentalities of the United States shall exercise their powers and authority over water resources in the ACT Basin and water resource facilities, and to the maximum extent practicable, shall exercise their discretion in carrying out their responsibilities, powers, and authorities over water resources in the ACT Basin and water resource facilities in the ACT Basin in a manner consistent with and that ef-

fectuates the allocation formula developed pursuant to this Compact or any modification of the allocation formula so long as the actions are not in conflict with any applicable federal law. The United States Army Corps of Engineers, or its successors, and all other federal agencies and instrumentalities shall cooperate with the ACT Basin Commission in accomplishing the purposes of the Compact and fulfilling the obligations of each of the parties to the Compact regarding the allocation formula.

"(d) Once adopted by the two states and ratified by the United States Congress, this Compact shall have the full force and effect of federal law, and shall supersede state and local laws operating contrary to the provisions herein or the purposes of this Compact; provided, however, nothing contained in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective signatory states relating to water quality, and riparian rights as among persons exclusively within each state.

"ARTICLE XI

"PUBLIC PARTICIPATION

"All meetings of the Commission shall be open to the public. The signatory parties recognize the importance and necessity of public participation in activities of the Commission, including the development and adoption of the initial allocation formula and any modification thereto. Prior to the adoption of the initial allocation formula, the Commission shall adopt procedures ensuring public participation in the development, review, and approval of the initial allocation formula and any subsequent modification thereto. At a minimum, public notice to interested parties and a comment period shall be provided. The Commission shall respond in writing to relevant comments.

"ARTICLE XII

"FUNDING AND EXPENSES OF THE COMMISSION

"Commissioners shall serve without compensation from the ACT Basin Commission. All general operational funding required by the Commission and agreed to by the voting members shall obligate each state to pay an equal share of such agreed upon funding. Funds remitted to the Commission by a state in payment of such obligation shall not lapse; provided, however, that if any state fails to remit payment within 90 days after payment is due, such obligation shall terminate and any state which has made payment may have such payment returned. Costs of attendance and participation at meetings of the Commission by the Federal Commissioner shall be paid by the United States.

"ARTICLE XIII

"DISPUTE RESOLUTION

"(a) In the event of a dispute between the voting members of this Compact involving a claim relating to compliance with the allocation formula adopted by the Commission under this Compact, the following procedures shall govern:

"(1) Notice of claim shall be filed with the Commission by a voting member of this Compact and served upon each member of the Commission. The notice shall provide a written statement of the claim, including a brief narrative of the relevant matters supporting the claimant's position.

"(2) Within twenty (20) days of the Commission's receipt of a written statement of a claim, the party or parties to the Compact against whom the complaint is made may prepare a brief narrative of the relevant matters and file it with the Commission and serve it upon each member of the Commission.

"(3) Upon receipt of a claim and any response or responses thereto, the Commission shall convene as soon as reasonably practicable, but in no event later than twenty (20) days from receipt of any response to the claim, and shall determine if a resolution of the dispute is possible.

"(4) A resolution of a dispute under this Article through unanimous vote of the State Commissioners shall be binding upon the state parties and any state party determined to be in violation of the allocation formula shall correct such violation without delay.

"(5) If the Commission is unable to resolve the dispute within 10 days from the date of the meeting convened pursuant to subparagraph (a)(3) of this Article, the Commission shall select, by unanimous decision of the voting members of the Commission, an independent mediator to conduct a non-binding mediation of the dispute. The mediator shall not be a resident or domiciliary of any member state, shall not be an employee or agent of any member of the Commission, shall be a person knowledgeable in water resource management issues, and shall disclose any and all current or prior contractual or other relations to any member of the Commission. The expenses of the mediator shall be paid by the Commission. If the mediator becomes unwilling or unable to serve, the Commission by unanimous decision of the voting members of the Commission, shall appoint another independent mediator.

"(6) If the Commission fails to appoint an independent mediator to conduct a non-binding mediation of the dispute within seventy-five (75) days of the filing of the original claim or within thirty (30) days of the date on which the Commission learns that a mediator is unwilling or unable to serve, the party submitting the claim shall have no further obligation to bring the claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

"(7) If an independent mediator is selected, the mediator shall establish the time and location for the mediation session or sessions and may request that each party to the Compact submit, in writing, to the mediator a statement of its position regarding the issue or issues in dispute. Such statements shall not be exchanged by the parties except upon the unanimous agreement of the parties to the mediation.

"(8) The mediator shall not divulge confidential information disclosed to the mediator by the parties or by witnesses, if any, in the course of the mediation. All records, reports, or other documents received by a mediator while serving as a mediator shall be considered confidential. The mediator shall not be compelled in any adversary proceeding or judicial forum to divulge the contents of such documents or the fact that such documents exist or to testify in regard to the mediation.

"(9) Each party to the mediation shall maintain the confidentiality of the information received during the mediation and shall not rely on or introduce in any judicial proceeding as evidence:

"a. Views expressed or suggestions made by another party regarding a settlement of the dispute;

"b. Proposals made or views expressed by the mediator; or

"c. The fact that another party to the hearing had or had not indicated a willingness to accept a proposal for settlement of the dispute.

"(10) The mediator may terminate the non-binding mediation session or sessions whenever, in the judgment of the mediator, further efforts to resolve the dispute would not lead to a resolution of the dispute between or among the parties. Any party to the dispute may terminate the mediation process at any time by giving written notification to the mediator and the Commission. If terminated prior to reaching a resolution, the party submitting the original claim to the Commission shall have no further obligation to bring its claim before the Commission and may proceed by pursuing any appropriate remedies, including any and all judicial remedies.

"(11) The mediator shall have no authority to require the parties to enter into a settlement of any dispute regarding the Compact. The mediator may simply attempt to assist the parties in

reaching a mutually acceptable resolution of their dispute. The mediator is authorized to conduct joint and separate meetings with the parties to the mediation and to make oral or written recommendations for a settlement of the dispute.

"(12) At any time during the mediation process, the Commission is encouraged to take whatever steps it deems necessary to assist the mediator or the parties to resolve the dispute.

"(13) In the event of a proceeding seeking enforcement of the allocation formula, this Compact creates a cause of action solely for equitable relief. No action for money damages may be maintained. The party or parties alleging a violation of the Compact shall have the burden of proof.

"(b) In the event of a dispute between any voting member and the United States relating to a state's noncompliance with the allocation formula as a result of actions or a refusal to act by officers, agencies or instrumentalities of the United States, the provisions set forth in paragraph (a) of this Article (other than the provisions of subparagraph (a)(4)) shall apply.

"(c) The United States may initiate dispute resolution under paragraph (a) in the same manner as other parties to this Compact.

"(d) Any signatory party who is affected by any action of the Commission, other than the adoption or enforcement of or compliance with the allocation formula, may file a complaint before the ACT Basin Commission seeking to enforce any provision of this Compact.

"(1) The Commission shall refer the dispute to an independent hearing officer or mediator, to conduct a hearing or mediation of the dispute. If the parties are unable to settle their dispute through mediation, a hearing shall be held by the Commission or its designated hearing officer. Following a hearing conducted by a hearing officer, the hearing officer shall submit a report to the Commission setting forth findings of fact and conclusions of law, and making recommendations to the Commission for the resolution of the dispute.

"(2) The Commission may adopt or modify the recommendations of the hearing officer within 60 days of submittal of the report. If the Commission is unable to reach unanimous agreement on the resolution of the dispute within 60 days of submittal of the report with the concurrence of the Federal Commissioner in disputes involving or affecting federal interests, the affected party may file an action in any court of competent jurisdiction to enforce the provisions of this Compact. The hearing officer's report shall be of no force and effect and shall not be admissible as evidence in any further proceedings.

"(e) All actions under this Article shall be subject to the following provisions:

"(1) The Commission shall adopt guidelines and procedures for the appointment of hearing officers or independent mediators to conduct all hearings and mediations required under this Article. The hearing officer or mediator appointed under this Article shall be compensated by the Commission.

"(2) All hearings or mediations conducted under this article may be conducted utilizing the Federal Administrative Procedures Act, the Federal Rules of Civil Procedure, and the Federal Rules of Evidence. The Commission may also choose to adopt some or all of its own procedural and evidentiary rules for the conduct of hearings or mediations under this Compact.

"(3) Any action brought under this Article shall be limited to equitable relief only. This Compact shall not give rise to a cause of action for money damages.

"(4) Any signatory party bringing an action before the Commission under this Article shall have the burdens of proof and persuasion.

"ARTICLE XIV

"ENFORCEMENT

"The Commission may, upon unanimous decision, bring an action against any person to enforce any provision of this Compact, other than

the adoption or enforcement of or compliance with the allocation formula, in any court of competent jurisdiction.

"ARTICLE XV

"IMPACTS ON OTHER STREAM SYSTEMS

"This Compact shall not be construed as establishing any general principle or precedent applicable to any other interstate streams.

"ARTICLE XVI

"IMPACT OF COMPACT ON USE OF WATER WITHIN THE BOUNDARIES OF THE COMPACTING STATES

"The provisions of this Compact shall not interfere with the right or power of any state to regulate the use and control of water within the boundaries of the state, providing such state action is not inconsistent with the allocation formula.

"ARTICLE XVII

"AGREEMENT REGARDING WATER QUALITY

"(a) The States of Alabama and Georgia mutually agree to the principle of individual State efforts to control man-made water pollution from sources located and operating within each State and to the continuing support of each State in active water pollution control programs.

"(b) The States of Alabama and Georgia agree to cooperate, through their appropriate State agencies, in the investigation, abatement, and control of sources of alleged interstate pollution within the ACT River Basin whenever such sources are called to their attention by the Commission.

"(c) The States of Alabama and Georgia agree to cooperate in maintaining the quality of the waters of the ACT River Basin.

"(d) The States of Alabama and Georgia agree that no State may require another state to provide water for the purpose of water quality control as a substitute for or in lieu of adequate waste treatment.

"ARTICLE XVIII

"EFFECT OF OVER OR UNDER DELIVERIES UNDER THE COMPACT

"No state shall acquire any right or expectation to the use of water because of any other state's failure to use the full amount of water allocated to it under this Compact.

"ARTICLE XIX

"SEVERABILITY

"If any portion of this Compact is held invalid for any reason, the remaining portions, to the fullest extent possible, shall be severed from the void portion and given the fullest possible force, effect, and application.

"ARTICLE XX

"NOTICE AND FORMS OF SIGNATURE

"Notice of ratification of this Compact by the legislature of each state shall promptly be given by the Governor of the ratifying state to the Governor of the other participating state. When the two state legislatures have ratified the Compact, notice of their mutual ratification shall be forwarded to the Congressional delegation of the signatory states for submission to the Congress of the United States for ratification. When the Compact is ratified by the Congress of the United States, the President, upon signing the federal ratification legislation, shall promptly notify the Governors of the participating states and appoint the Federal Commissioner. The Compact shall be signed by all three Commissioners as their first order of business at their first meeting and shall be filed of record in the party states."

SEC. 2. INCONSISTENCY OF LANGUAGE.

The validity of the compact consented to by this Act shall not be affected by any insubstantial difference in its form or language as adopted by the States.

SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.

The right to alter, amend, or repeal this joint resolution is hereby expressly reserved.

SEC. 4. RESERVATIONS.

To ensure participation of Federal agencies during the development of the allocation formula and participation in all technical working groups and meetings in which the terms and conditions of the allocation formula are negotiated and to preserve Federal discretion under law, the consent of Congress to, and participation of the United States in, the Alabama-Coosa-Tallapoosa River Basin Compact, is subject to the following conditions and reservations:

(1) Representatives of any Federal agency may attend any and all meetings of the Commission.

(2) Upon the request of the Federal Commissioner, representatives of any Federal agency may participate in any meetings of technical committees, if any, of the Commission at which the basis or terms and conditions of the allocation formula or modifications to the allocation formula are to be discussed or negotiated.

(3) The Federal Commissioner shall be given notice of any meeting of the Commission or any meeting of technical committees, if any, of the Commission at which compliance with the allocation formula by one or more officers, agencies, or instrumentalities of the United States is to be discussed.

(4) Under the provisions of Article VII(a), the Federal Commissioner may submit a letter of concurrence with the allocation formula unanimously adopted by the State Commissioners within 255 days of such adoption.

(5) No mediator shall be selected under Article XIII(b) or Article XIII(c) without the concurrence of the Federal Commissioner and no resolution of a dispute under Article XIII(c) shall be made binding on the United States without the concurrence of the Federal Commissioner.

(6) The obligations of employees, agencies, and instrumentalities of the United States pursuant to Articles VII(b), X(a), and X(c) to exercise their discretion, to the maximum extent practicable, in a manner consistent with the allocation formula shall not be construed to interfere with the ability of such employees, agencies, and instrumentalities to take actions during emergency situations.

(7) As among water right holders within any one State, nothing in this Compact shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective signatory States relating to riparian rights of the United States in and to the waters of the Alabama-Coosa-Tallapoosa River Basin.

SEC. 5. EFFECTUATION.

(a) **FEDERAL AGENCY AUTHORITY.**—To carry out the purposes of this Compact, Federal agencies are authorized, as they may deem appropriate—

(1) to engage in cooperative relationships with the Commission;

(2) to conduct studies and monitoring programs in cooperation with the Commission;

(3) to enter into agreements to indemnify private landowners against liability that may arise from studies and monitoring programs undertaken in cooperation with the Commission; and

(4) to furnish assistance, including the provision of services, facilities, and personnel, to the Federal Commissioner.

(b) **APPROPRIATIONS.**—Appropriations are authorized as necessary for implementing the Compact, including appropriations for carrying out the functions of the Federal Commissioner and alternates and for employment of personnel by the Federal Commissioner.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Pennsylvania [Mr. GEKAS] and the gentleman from New York [Mr. NADLER], each will control 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. GEKAS].

□ 1415

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania [Mr. GEKAS]?

There was no objection.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just as we outlined in the previous matter, the Constitution provides that two or more States entering into agreements cannot finalize those agreements without the consent of the Congress. A similar situation has arisen in the States of Alabama and Georgia with respect to certain rights that they each claim and benefits that each would derive from an agreement. And, therefore, the two States finally entered into an agreement concerning the Alabama Coosa-Tallapoosa River Basin Commission. They developed a formula with which they can all live comfortably, and they come to the Congress for approval of the compact. Hence, our posture here today.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

(Mr. NADLER asked and was given permission to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, like the last measure that we just debated a few moments ago, this measure, which passed the Committee on the Judiciary unanimously, has the support of all the Members on both sides of the aisle on that committee. Again, the chairman has done a fine job of explaining it, and I am not going to repeat it.

Again, this bill has support of both States involved in the compact, of their entire congressional delegations of both parties, and of the administration. It protects the discretion of the Federal agencies to enforce the Federal laws that they have to enforce. And, therefore, there is no reason we should not grant our approval under article 1 to the two States' interstate compact.

I support this legislation. I urge my colleagues to do so.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I have no speakers on our side of the aisle, and I yield back the balance of my time.

Mr. SHUSTER. Mr. Speaker, as chairman of the Transportation and Infrastructure Committee, I rise to address provisions in House Joint Resolution 91, a joint resolution granting the consent of Congress to the Apalachicola-Chat-tahoochee-Flint River basin compact and House Joint Resolution 92, a joint resolution granting the consent of Congress to the Alabama-Coosa-Tallapoosa River basin compact.

I commend the Speaker, members of the Judiciary Committee, and Representatives of the States of Alabama, Florida, and Georgia

and the Federal agencies involved. These two resolutions, and the underlying compacts, have a long history of conflict and cooperation. I understand the final text before us is the result of much compromise.

Because of its jurisdiction over the U.S. Army Corps of Engineers' water resources program, as well as the Clean Water Act, the Transportation and Infrastructure Committee has a significant interest in the joint resolutions, the interstate compacts and the development and implementation of the allocation formulas. In fact, in 1988 the committee's Subcommittee on Water Resources held hearings in Georgia and Florida on the water allocation issues these compacts are attempting to solve.

Perhaps at the heart of this debate among three States and two river basins is the management of Federal reservoirs. For example, proposed reallocation of storage water from corps' reservoirs in Georgia prompted litigation in 1990 which also lead in part to a memorandum of agreement among the States in 1992.

Today, and certainly into the future, the Corps of Engineers will be a critical player in determining the success of the compacts and their resulting water allocation formulas. It is my understanding the Judiciary Committee amended the introduced joint resolutions specifically to address outstanding concerns of the Corps of Engineers and the Department of Justice. One of the amendments is intended to preserve Federal discretion to comply with and enforce other congressional directives and authorities—such as project authorities contained in water resources development acts.

I recognize there is a delicate balance between Federal and State rights and responsibilities regarding water allocations in the two basin compacts. I expect our committee will be in a position to oversee and investigate the implementation of House Joint Resolution 91 and House Joint Resolution 92, particularly the efforts of Federal agencies to respect that delicate balance as we turn our attention to a water resources development act of 1998 and to future hearings and bills involving the Corps of Engineers.

Mr. Speaker, I commend you for your leadership on these joint resolutions and look forward to working with you and others on their implementation.

Mr. CALLAHAN. Mr. Speaker, I rise today to speak briefly in support of House Joint Resolution 92, a joint resolution endorsing the Alabama-Coosa-Tallapoosa [ACT] River Basin Compact and House Joint Resolution 91, a bill to implement the Apalachicola-Chattahoochee-Flint [ACF] River Basin Compact. The rivers of the ACT and ACF basins originate in northern Georgia and terminate in Mobile Bay in my congressional district in southern Alabama and Florida respectively. In recent years, the areas along these waterways have continued to grow, adding demands on the water systems from increased drinking water needs, flood control projects, hydropower and navigational demands, fish and wildlife conservation, and recreation.

In an effort to ensure a fair system for allocating the supply of water in both Georgia, Florida, and Alabama, the three States have entered into agreements between themselves and the Federal Government to provide a framework for the future determination of allocation formulas which meet the various demands placed on these systems. These joint

resolutions are necessary to give congressional consent to the States' compacts.

I would like to take a moment to commend the offices of Gov. Fob James of Alabama, Gov. Zell Miller of Georgia, and Gov. Lawton Chiles of Florida for their dedication to resolving outstanding issues between the States and the appropriate Federal agencies. I would also like to thank Alabama's chief negotiator during these deliberations, Walter Stevenson of the Alabama Department of Economic and Community Affairs.

I would like to remind my colleagues, as the sponsor of House Joint Resolution 92 and a cosponsor of House Joint Resolution 91, these bills have strong support from the States and near unanimous support from the congressional delegations of Georgia, Florida, and Alabama. House Joint Resolution 91 and House Joint Resolution 92 represent a tremendous step forward in establishing a process to fairly allocate the waters of the ACT and ACF basins between the States of Georgia and Alabama. This legislation, and the cooperative Federal-State negotiations upon which they are based, should be seen as a model for all similar conflict resolutions.

I thank the Speaker for yielding me this time and encourage all my colleagues to support this legislation.

Mr. BARR. Mr. Speaker, I want to begin by thanking Mr. HYDE and Mr. GEKAS of the Judiciary Committee and their staff for diligently working with me to bring this legislation to the floor. I would also like to commend the Governors and legislators of the three States involved—Georgia, Alabama, and Florida—as well as the Clinton administration, for tirelessly working to find the appropriate middle ground that has allowed us to move forward with this Federal enacting legislation.

I would like to make a brief statement about the importance of these two pieces of legislation, House Joint Resolutions 91 and 92. Although the language in House Joint Resolution 91 and House Joint Resolution 92 does not set forth the actual water allocations, these bills are vital to the water flow in this tristate region. House Joint Resolutions 91 and 92 will simply lay out the process by which the States, with the approval of the administration, will negotiate the final water allocation formulas.

Without the timely passage of these bills, many months of hard negotiations between the States and administration, and the legislative efforts of three States and their Governors would have been lost. It is important to point out that without Federal action by the end of the current year the legislation before us would have been void, and with so few legislative days remaining in this session I am glad to see this legislation pass the House.

Again, all the parties involved are in agreement with the legislation and ready to move forward. It is my hope that Congress will now lend its approval to these proposals and pass House Joint Resolutions 91 and 92.

Mr. EVERETT. Mr. Speaker, I rise in support of House Joint Resolution 92, a resolution to provide congressional approval of the interstate compact between Alabama and Georgia. Both of these States have worked hard in arriving at a water resource sharing solution that benefits each State. This resolution simply endorses this agreement.

The combined partnership will enhance water quality, deliver water allocations in a responsible manner, and promote interstate commerce. It has always been my belief that locally derived solutions and cooperation regarding the allocation of valuable resources, such as the Alabama-Coosa-Tallapoosa River, makes far better sense than a solution derived in Washington. I support House Joint Resolution 92 and encourage my colleagues to do the same.

Mr. NADLER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore [Mr. PACKARD]. The question is on the motion offered by the gentleman from Pennsylvania [Mr. GEKAS] that the House suspend the rules and pass the joint resolution, House Joint Resolution 92, as amended.

The question was taken.

Mr. NADLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

COMMERCIAL SPACE ACT OF 1997

Mr. ROHRBACHER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1702) to encourage the development of a commercial space industry in the United States, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1702

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Commercial Space Act of 1997".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—PROMOTION OF COMMERCIAL SPACE OPPORTUNITIES

Sec. 101. Commercialization of space station.

Sec. 102. Commercial space launch amendments.

Sec. 103. Launch voucher demonstration program.

Sec. 104. Promotion of United States Global Positioning System standards.

Sec. 105. Acquisition of space science data.

Sec. 106. Administration of Commercial Space Centers.

TITLE II—REMOTE SENSING

Sec. 201. Land Remote Sensing Policy Act of 1992 amendments.

Sec. 202. Acquisition of earth science data.

TITLE III—FEDERAL ACQUISITION OF SPACE TRANSPORTATION SERVICES

Sec. 301. Requirement to procure commercial space transportation services.

Sec. 302. Acquisition of commercial space transportation services.

Sec. 303. Launch Services Purchase Act of 1990 amendments.

Sec. 304. Shuttle privatization.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(2) the term "commercial provider" means any person providing space transportation services or other space-related activities, primary control of which is held by persons other than Federal, State, local, and foreign governments;

(3) the term "payload" means anything that a person undertakes to transport to, from, or within outer space, or in suborbital trajectory, by means of a space transportation vehicle, but does not include the space transportation vehicle itself except for its components which are specifically designed or adapted for that payload;

(4) the term "space-related activities" includes research and development, manufacturing, processing, service, and other associated and support activities;

(5) the term "space transportation services" means the preparation of a space transportation vehicle and its payloads for transportation to, from, or within outer space, or in suborbital trajectory, and the conduct of transporting a payload to, from, or within outer space, or in suborbital trajectory;

(6) the term "space transportation vehicle" means any vehicle constructed for the purpose of operating in, or transporting a payload to, from, or within, outer space, or in suborbital trajectory, and includes any component of such vehicle not specifically designed or adapted for a payload;

(7) the term "State" means each of the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(8) the term "United States commercial provider" means a commercial provider, organized under the laws of the United States or of a State, which is—

(A) more than 50 percent owned by United States nationals; or

(B) a subsidiary of a foreign company and the Secretary of Transportation finds that—

(i) such subsidiary has in the past evidenced a substantial commitment to the United States market through—

(I) investments in the United States in long-term research, development, and manufacturing (including the manufacture of major components and subassemblies); and

(II) significant contributions to employment in the United States; and

(ii) the country or countries in which such foreign company is incorporated or organized, and, if appropriate, in which it principally conducts its business, affords reciprocal treatment to companies described in subparagraph (A) comparable to that afforded to such foreign company's subsidiary in the United States, as evidenced by—

(I) providing comparable opportunities for companies described in subparagraph (A) to participate in Government sponsored research and development similar to that authorized under this Act;

(II) providing no barriers, to companies described in subparagraph (A) with respect to local investment opportunities, that are not provided to foreign companies in the United States; and

(III) providing adequate and effective protection for the intellectual property rights of companies described in subparagraph (A).